

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
AT DAYTON

STEVEN M. WILLIAMS, : CASE NO. C-3-04-CV-117

Plaintiff, : Magistrate Judge Michael R. Merz

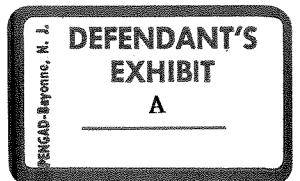
v. :

DAYTON POLICE DEPT. et al. : AFFIDAVIT OF JOHN C.
Defendants. : MUSTO

STATE OF OHIO)
)
COUNTY OF MONTGOMERY)

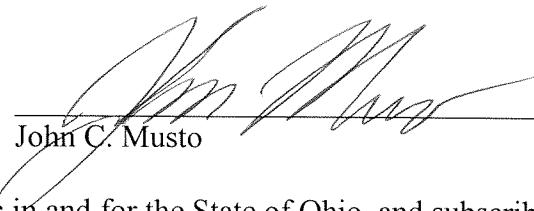
John C. Musto, after being duly cautioned and sworn, states the following:

1. I have personal knowledge of all information contained in this affidavit and I am competent to testify to all of the facts contained in this affidavit and to testify to all matters stated herein.
2. I currently serve as an Assistant City Attorney for the City of Dayton Law Department.
3. On April 15, 2004, the Plaintiff filed his Complaint against the City of Dayton and several Dayton Police Officers.
4. I was assigned as one of the counsel for Defendants.
5. Plaintiff informed this Counsel and the Court on several occasions that he was going to represent himself in this matter and would not retain an attorney. Plaintiff was advised on several occasions to obtain counsel and he refused to do so, stating that he would represent himself.
6. On July 19, 2005, after several attempts to contact the Plaintiff, Defendants' Counsel was able to contact Plaintiff and enter into an agreement to take the Plaintiff's Deposition on Monday, August 8, 2005 at 9:00 A.M. Defendants' Counsel filed a Notice of Deposition with the Court and served the Plaintiff with a copy on July 19, 2005.



7. On the afternoon of Friday, August 5, 2005, Counsel phoned Plaintiff to remind him of his deposition and Plaintiff told Counsel that he would be busy and unable to attend. Counsel and Plaintiff then agreed to conduct the deposition on Friday, August 12, 2005 at 9:00 A.M. Defendants' Counsel then duly noticed the deposition and sent a copy to Plaintiff.
8. On Friday, August 12, 2005, during the deposition, Counsel asked Plaintiff what specific actions he saw each of the Defendants perform. After giving several contradictory answers to questions, the Plaintiff refused to answer any more questions.
9. Counsel informed the Plaintiff both on and off of the record that his failure to answer the questions would result in Defendants' filing a Motion for Sanctions and a Motion to Dismiss for Failure to Prosecute. Plaintiff told Counsel, both on and off of the record, that he would not answer any more questions and that Counsel would have to file the Motion.
10. Despite Counsel's efforts, Plaintiff refuses to cooperate in discovery.

Further affiant sayeth naught.



John C. Musto

Sworn to before me, a Notary Public in and for the State of Ohio, and subscribed in my presence, this 18th day of August 2005.



Notary Public

D. M. BROWN, Notary Public
In and for the State of Ohio
My Commission Expires Nov. 11, 2006